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SENATE BILL 318

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Mary Kay Papen

AN ACT

RELATING TO PERSONAL FINANCE; CRIMINALIZING SKIMMING OR THE USE
OF A SCANNING DEVICE OR RE-ENCODER TO DEFRAUD CREDIT, DEBIT OR
OTHER PAYMENT CARD HOLDERS; PROVIDING A PENALTY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SKIMMING PROHIBITED. --

A. It is unlawful for a person to skim or use:

(1) a scanning device to access, read, obtain,
memorize or store, temporarily or permanently, information
encoded on the magnetic strip or stripe of a payment card
without the permission of the cardholder of the payment card
and with the intent to defraud the cardholder, the issuer of
the cardholder's payment card or a merchant; or

(2) a re-encoder to place information encoded
on the magnetic strip or stripe of a payment card onto the

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1 magnetic strip or stripe of a different card without the
2 permission of the cardholder of the card from which the
3 information is being re-encoded and with the intent to defraud
4 the cardholder, the issuer of the cardholder's payment card or
5 a merchant.

6 B. A person who willfully and intentionally
7 violates any provision of this section is guilty of a fourth
8 degree felony and shall be punished pursuant to Section
9 31-18-15 NMSA 1978.

10 C. A person who violates any provision of this
11 section a second or subsequent time is guilty of a third degree
12 felony and shall be punished pursuant to Section 31-18-15 NMSA
13 1978.

14 D. As used in this section:

15 (1) "cardholder" means a person with the
16 empowerment or permission to act in the usage of a payment
17 card;

18 (2) "merchant" means an owner or operator of a
19 retail mercantile establishment or an agent, employee, lessee,
20 consignee, officer, director, franchisee or independent
21 contractor of the owner or operator who receives from a
22 cardholder of a payment card, or someone the merchant believes
23 to be a cardholder, a payment card or information from a
24 payment card, or what the merchant believes to be a payment
25 card or information from a payment card, as the instrument for

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1 obtaining, purchasing or receiving goods, services, money or
2 anything else of value from the merchant; and

3 (3) "payment card" means a credit card, charge
4 card, debit card, hotel key card, stored value card or other
5 card that is issued to a cardholder and that allows the user to
6 obtain, purchase or receive goods, services, money or anything
7 else of value from a merchant.

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